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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,771	02/16/2005	Luigi Panzetti	BUG7-43177	3401
116 7590 10/10/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
GOFF II, JOHN L				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
10/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/524,771

Applicant(s)

PANZETTI, LUIGI

Examiner

John L. Goff

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Applicant's arguments, see pages 3 and 4 of the response filed 7/3/08, with respect to the rejection(s) of claim(s) 1-4 under 35 U.S.C. 102 (b) and/or 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the previous rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly cited Benim et al. (U.S. Patent Application Publication 2003/0134061).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation "the sleeve" in line 5. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 2 requires "the bottle", "the container or bottle", and "the container". It appears the claim is limited to a bottle or a container, and this is the interpretation given by the Examiner.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benim et al. (U.S. Patent Application Publication 2003/0134061).

Benim discloses a process for forming tubular label sleeves made of heat shrinkable films and adhering them on bottles or containers including providing the transfer of the bottles or containers into the formed tubular label sleeves by a movement of the bottles or containers into the sleeve (Paragraph 0040). Benim does not specifically teach the movement of the bottles or containers is downward or upward. However, there are only two plain ways of moving a bottle or container into a sleeve, i.e. move the bottle downward into the sleeve or move the bottle upward into the sleeve. It would have been obvious to one of ordinary skill in the art at the time the invention was made to move the bottles or containers into the sleeve as required by Benim through either of the only two possible ways, i.e. downward or upward movement of the bottles or containers, as both ways achieve the same result.

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Doherty (U.S. Patent 4,199,851) in view of Benim.

Doherty discloses a process for forming tubular label sleeves made of heat shrinkable films and adhering them on bottles or containers including cutting a heat shrinkable film to obtain a precut label having a length slightly longer than a cross-section perimeter of the bottle or

container, transferring the precut label by a drum provided with areas for drawing the precut label, winding the precut label on a rotating tubular-shaped plate, sealing both vertical overlapped ends of the precut label in a predetermined position for obtaining a tubular label sleeve by heat sealing or adhesives, removing the label sleeve from the tubular plate and inserting the bottle or container into the tubular label in the position in which the label will be located, and heating the bottle or container to heat shrink the label on the container (Figures 2-6 and Column 2, lines 48-65). It is noted Doherty teaches the transfer of the bottle or container into the tubular label sleeve by an upward movement of the sleeve by upward movement of a stripper sleeve over the stationary tubular-shaped plate (Column 3, lines 58-68 and Column 4, lines 1-2). Doherty does not teach the alternative, i.e. downward movement of the bottle or container by downward movement of the tubular-shaped plate while the stripper sleeve is stationary. However, as is readily understood in inserting a first object into a second object wherein one of the objects is stationary either the first object must move relative to the second object or the second object must move relative to the first object. This basic principle is well understood in the art of tubular sleeve heat shrink labeling of containers wherein either the sleeve is moved over the container or the container is moved into the sleeve as evidenced by Benim. It would have been obvious to one of ordinary skill in the art at the time the invention was made that inserting the bottle or container into the tubular label sleeve as taught by Doherty by an upward movement of the sleeve could just as easily be achieved by alternatively a downward movement of the bottle or container as both would achieve the same result, it being noted nowhere in Doherty is there advanced any criticality for inserting the bottle or container into the tubular sleeve by upward movement of the sleeve and applicants have shown no criticality for

inserting the bottle or container into the tubular sleeve by downward movement of the bottle or container into the sleeve.

9. Claim 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doherty and Benim as applied to claim 1 above, and further in view of Ashcroft (U.S. Patent 3,959,065).

Doherty and Benim as applied above teach all of the limitations in claim 2 except for a specific teaching that during winding the rotating tubular-shaped plate supports the container or bottle to be labeled, it being noted Doherty suggests the container or bottle is placed on the tubular-shaped plate following winding. However, it was known in the art to convey the bottles on a path that is coaxial with the winding machine such that the tubular-shaped plate supports the container or bottle to be labeled during winding as shown by Ashcroft (Column 3, lines 32-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Doherty as modified by Benim to include conveying the bottles or containers on a coaxial path with the tubular-shaped plate as shown by Ashcroft such that the rotating tubular-shaped plates supports the bottles or containers during winding thereby eliminating the time required for placing the bottle or container on the tubular-shaped plate after winding.

Regarding claim 3, Doherty teaches that the step of winding the precut label on the tubular plate is performed by establishing a negative or positive air pressure on the side surface of the plate (Column 3, lines 17-22).

Regarding claim 4, Doherty teaches removing the tubular label from the tubular plate is performed by establishing a pressure or an air jet on the inner surface of the label (Column 4, lines 3-22).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571)272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/
Primary Examiner, Art Unit 1791